

Internal Revenue Service
District Director

Department of the Treasury

Post Office Box 1680, GPO
Brooklyn, NY 11202

Date: **MAR 25 1992**

Person to Contact: [REDACTED]

Contact Telephone Number: [REDACTED]

Refer Reply to: [REDACTED]

CERTIFIED MAIL

Dear Applicant:

We have considered your application for tax-exempt status under section 501(c)(3) of the Internal Revenue Code.

The evidence presented in your 1023 application indicates that you were incorporated on [REDACTED] in [REDACTED].

The purposes for which the corporation was formed are as follows:

"The Corporation is organized for charitable, community, educational and scientific purposes, including, for such purposes, the receipt and distributions to organizations that qualify as exempt organizations under Section 501(c)(3) of Internal Revenue Code."

The information submitted with your 1023 application indicates that the primary activity of the organization is to meet, discuss and confront issues affecting the community. The meetings typically feature guest speakers and the issues discussed involve: public safety, establishing neighborhood crime watches, evaluating and recommending community parking and public transportation needs, and reviewing development proposals.

Your sources of financial support consist of membership dues from persons or firms within the four square mile area making up the community. Membership dues are \$[REDACTED] annually per person or firm.

Section 501(c)(3) of the Code provides, in part, for the exemption from Federal income tax of organizations organized and operated exclusively for charitable, religious, scientific or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

In order to qualify under IRC 501(c)(3), an organization must be both "organized" and "operated" exclusively for one or more purposes specified in that section. If the organization fails to meet either the organizational test or the operational test, it is not exempt. (Regs. 1.501(c)(3)-1(a)(1)). The organizational test relates to the rules for governing an organization and the purposes stated in its articles of organization. The operational test relates to the organization's activities.

Section 1.501(c)(3)-1(c)(1) of the Regulations states that if more than an insubstantial part of an organization's activities is not in furtherance of exempt purposes, the organization will not be regarded as exempt.

In Bettar Business Bureau v. U.S., 326 U.S. 279 (1945), the Supreme Court stated that the presence of even a single, non-exempt purpose, if more than insubstantial in nature, will defeat exemption under Section 501(c)(3) of the Code, regardless of the manner or importance of the truly exempt purposes.

Section 1.501(c)(3)-1(d)(1)(ii) of the Regulations provides, in part, that an organization is not organized or operated exclusively for one or more of the purposes mentioned in section 501(c)(3) of the Code unless it serves a public rather than a private interest. An organization may not be exempt if it is operated for the benefit of private individuals.

Section 1.501(c)(3)-1(d)(2) of the Regulations provides that the term "charitable" includes relief of the poor and distressed, advancement of education and science and the promotion of social welfare designed to accomplish any of the above purposes.

Section 1.501(c)(3)-1(d)(3) of the Regulations provides, in part, that the term "educational" relates to the instruction of the public on subjects useful to the individual and beneficial to the community. Museums and schools are included in the examples of educational organizations which, if they otherwise meet the requirements of section 501(c)(3) of the Code, may qualify under this section.

Revenue Ruling 68-14, 1968-1 C.B. 243, held that a non-profit organization formed to promote and assist in city beautification projects and to educate the public in the advantages of street planting is exempt under section 501(c)(3) of the Code. The activities of the organization consist of planting trees in public areas for which the city does not have sufficient funds. It also cooperates with municipal authorities in all phases of street tree planting and in programs to help keep the city clean; educates the public in advantages of tree planting through newspapers, radio, and distributed literature; encourages architects and builders to include planting with any new building or remodeling projects; and supports other charitable and educational organizations whose primary interest is to preserve and develop the beauty of the city.

Revenue Ruling 75-386, 1975-2 C.B. 210, held that a non-profit organization with membership limited to residents and business operators within a city block and formed to preserve and beautify the community as a whole as well as enhancing the members property rights, will not qualify for exemption under section 501(c)(3) of the Code but may qualify under section 501(c)(4).

Unlike the organization described in Revenue Ruling 68-14 and similar to the organization described in Revenue Ruling 75-386, the primary focus of your current activities is public safety, establishing neighborhood crime watches, evaluating and recommending community parking, public transportation needs and reviewing development proposals. These activities are not considered to be lessening the burdens of Government, nor has any evidence been submitted to substantiate that the Town considers the activity to be its burdens either in the past, currently, or in the future. Therefore, we have determined that you are not operated exclusively for charitable, educational or other purposes stated in section 501(c)(3) of the Code.

Accordingly, we conclude that you do not meet the requirements for exempt status under section 501(c)(3) of the Code and propose to deny your request for exemption under that section.

You are required to file a taxable return Form 1120 or 1041 with the District Director of Internal Revenue Service. Please send the return to the Internal Revenue Service, P.O. Box 1680, General Post Office, Brooklyn, NY 11202.

Contributions made to you are not deductible by the donors as charitable contributions as defined in section 170(c) of the Code.

If you do not agree with this determination, you may request a Conference with the Regional Director of Appeals by protesting in accordance with the enclosed instructions within 30 days.

Protests submitted which do not contain all the documentation stated in the instructions will be returned for completion.

If we do not hear from you within that time this determination will be considered final and the appropriate State Officials will be notified.

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

Sincerely yours,


District Director

Enclosure: Publication 892